

# **NRCS Farm and Ranch Land Protection Program Oregon**

## ***Introduction to the 2006 Program Year***

### **and Summary of Program Changes for 2006**

The NRCS Farm and Ranch Lands Protection Program establish partnerships with land trusts, state and local unit of government, and other non-profit organizations, to purchase conservation easements on farm land in New Hampshire. These easements protect agricultural land, and important farmland soils, by prohibiting conversion to non-agricultural uses.

For the 2006 program year, Oregon received \$662,813 that will be awarded to the top ranking farms.

The documents found on this website provide eligibility criteria, how to complete applications, along with other valuable information for conservation entities wishing to participate in the program. The eligibility requirements for the 2006 program year has changed significantly from previous years. This document provides a brief overview of some of the changes in the FRPP program for 2006. Interested applicants are encouraged to review the eligibility requirements carefully for a more thorough explanation of FRPP Rules to insure the subject property and cooperating entity is eligible for receiving FRPP funds.

The FRPP Interim Final Rule was released on March 27, 2006. The Announcement of Program Funds (APF) (previously known as Request for Proposals) was published on the Government Website on March 27, 2006. The Interim Final Rule is available off the NRCS website at <http://www.or.nrcs.usda.gov>. The APF is available off the Fed Grants web site at: <http://www.grants.gov>. There is a 45 day window to apply for FRPP funding for the 2006 program year. The deadline for receiving proposals at the NRCS State Office in Portland, OR is Close of Business (4:00pm) on May 11, 2006. Applicants must provide eight (8) full-color original copies of the proposal.

For question, contact Bill White, Leader for Programs at:  
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**The following is a brief summary of changes in the  
Farm and Ranch Lands Protection Program  
for the 2006 program Year**

The following summary of changes identifies only those changes believed to have significant impact for potential applicants participating in the FRPP program in Oregon. This summary of changes is written in the words of the OR FRPP Program Manager, and are not necessarily verbatim from the Interim Final Rule (IFR). To see the full content and context of program changes, please refer to the IFR. Also, the IFR is seeking comments from program participants and the general public on these changes as well as pending changes in the FRPP Program. You are encouraged to provide comment.

**Real Property Rights Acquired by the United States**

Over the past few years there have been questions regarding the legal sufficiency of the United States contingent rights in conservation easements. To avoid any further confusion, NRCS is clarifying the nature of the rights acquired under FRPP so there can be no question that these rights are presently vested, insurable real property rights. The Agency is doing this by re-characterizing its “contingent right” as well as requiring that the United States is identified as a co-owner (co-grantee) on FRPP funded deeds.

This change amends the terminology in FRPP easement deeds from “contingent right” to “rights”. The property rights provision required in FRPP easements will indicate the same rights have been granted to the United States that have been granted to the partner/grantee. However,

the Secretary of the United States Department of Agriculture will only exercise these rights when the partner/grantee fails to enforce any of the terms of the easement.

These changes do not alter the fundamental relationship NRCS has had with its FRPP partners or the primary stewardship responsibilities for FRPP funded easements. The clarifications noted above are just that—clarifications so that there is no ambiguity as to the rights the United States is acquiring. The Department of Agriculture anticipates and intends that its relationship with its partners will remain the same as it was prior to the publication of this rule change. The Department continues to see its role as a backstop to ensure the viability of FRPP easements with primary stewardship and management of the easements squarely in the hands of the partner.

### **Percent Allowable Forest Cover**

New FRPP program rules will now allow up to 66% forest cover on FRPP easements. This forest cover includes sugarbush and pulpwood. Under any circumstance, the maximum FRPP funding contribution cannot exceed 50% of the appraised fair market value. For easement parcels containing between 51% and 66% forest cover, the maximum FRPP funding contribution will be equal to the percent open space on the easement parcel. For example: if a parcel has 55% forest cover, the maximum FRPP contribution would be 45% of the appraised fair market value. If a parcel has 65% forest cover, the maximum FRPP contribution would be 35%. Parcels with more than 66% forest cover are not eligible for FRPP funding.

### **Revised definition of “forest land”**

Consistent with other NRCS conservation programs, “forest land” means a land cover/use category that is at least 10 percent stocked by single-stemmed woody species of any size that will be at least 4 meters (13 feet) tall at maturity. Also included is land bearing evidence of natural regeneration of tree cover (cut over forest or abandoned farmland) that is not currently developed for nonforest use. Ten percent stocked, when viewed from a vertical direction, equates to an aerial canopy cover of leaves and branches of 25 percent or greater.

### **Title Review**

Because, under FRPP, the United States is acquiring an interest in land, legal sufficiency of title of all FRPP funded easements must be reviewed by the Office of General Council (OGC) prior to conveyance. OGC title review is non-delegable. The process used to approve title for FRPP funded acquisitions will be the same as other real property acquisitions by the United States Government. However, because FRPP is a partnership program, partners also review title for sufficiency prior to the

acquisition of a conservation easement. The agency is sensitive to this fact, as well as the need for timely review, given closing deadlines. The USDA will do its best to work with its partners to ensure that title review is carried out in a timely a manner as is possible. The partners can facilitate OGC's review by ensuring that any clouds on title have been removed or subordinated as necessary and by promptly forwarding title documents to NRCS for review. The NRCS is requesting all title documents be submitted to the State Office in Portland, OR, at least 60 days prior to any scheduled or desired closing date.

### **Appraisals**

Prior to closing on an FRPP easement, an appraisal must be completed and signed by a State-certified general appraiser. The appraisal must conform to both the Uniform Standards of Professional Appraisal Practices and the Uniform Appraisal Standards for Federal Land Acquisitions (Yellow Book). Appraisals may be subject to a Technical Review by a Federal Appraiser or Federally contracted appraiser. The NRCS is requesting the final appraisal be submitted to the State Office in Portland, OR, at least 60 days prior to any scheduled or desired closing date.

**These program changes are not retro-active**, and will not apply to prior-year agreements with pending easements that have not yet closed. **Be that as it may**, the NRCS has strengthened the review procedure on all closing documents regardless of the agreement year. This includes reviews by other agencies (Office of General Council) or other offices (Federal Appraisers Office) outside of New Hampshire. Cooperating entities are encouraged to submit all final documents to the NRCS State Office in Portland, OR at least 60 days prior to any scheduled or desired closing date in order to allow NRCS the time needed to complete the review and approval process.

A complete copy of the FRPP Interim Final Rule is available off the NRCS website at: <http://www.or.nrcs.usda.gov>